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Election Day Registration:

Neither a Panacea for Turnout, nor Ready for Prime Time.

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*"It is the opinion of the Task Force . . . that the one thing that could eliminate a large percentage of fraud or the appearance of fraudulent voting in any given Election is the elimination of the On-Site or Same Day voter registration system. "*¹

*"As an alternative, if On-Site registration is to continue in its present form, then the presentation of a government issued identification card that includes the voter's name, address (including city) and date of birth should be presented before that person is allowed to register and vote. The inclusion of identification alternatives such as a credit card bill, library card, lease, etc., where no photo is provided does not ensure that the person presenting these types of documents is in fact the person they are asserting to be. "*²

- Recommendations of the Milwaukee Police Department,
"Report of the Investigation into the November 2, 2004 General Election in the City of Milwaukee"

*"By confirming that voters have met all eligibility requirements, the voters list helps confer legitimacy on the electoral process. Conversely, the legitimacy of the process will immediately be called into question if there are problems with voter registration, and particularly with the integrity of the voters list. Voter registration therefore is one of the most important tasks of election administration. "*³

- ACE Encyclopedia, in its overview of Voter Registration

INTRODUCTION

We live in an age of hotly contested political campaigns, recounts and challenged elections. In 2000, the nation waited anxiously as poll workers in Florida tried to determine the difference between a pregnant chad and a hanging chad, and saw a presidential race turn on one state in which the winning margin was 537 votes. That same year, Al Gore carried the State of Wisconsin by less than 6,000 votes out of almost 2.6 million. In 2004, Christine Gregoire was determined to have carried Washington State by 133 votes out of almost 2.9 million. In 2005, Virginia's statewide race for Attorney General was decided by 360 votes out of over 2 million. In 2008, the citizens of Minnesota saw an election contest court determine a U.S. Senate race by 312 votes out of almost 2.9 million votes. It was later determined that the number of felons who voted illegally in the Twin Cities area alone had the potential to determine the outcome. In 2010,

Minnesota endured yet another recount to determine who would serve as the state's next governor. In times of such close elections, the necessity to ensure confidence in the system by making certain all elections are free from fraud and irregularities is paramount.

Election Day Registration is a process that is gaining favor with liberal activists. The theory is easy enough to sell. Every American has the right to vote; therefore, we should do whatever we can to make it easy for Americans to register and vote. However, Election Day Registration is not a panacea for low turnout and voter apathy. Instead, it is a process that is too easily subject to both intentional fraud and unwitting incompetence. Given the fact that voter registration takes place only minutes before a vote is cast, and there is no verification beyond whatever method is required of the voter who registers on-site, nothing can be done to prevent illegitimate votes from being counted. As a "Report of the Investigation into the November 2, 2004 General Election in the City of Milwaukee," (hereinafter "Milwaukee Report"): "What is most troubling is that each ineligible ballot accepted in effect cancels a legal vote cast by a Wisconsin state resident."⁴

I. BACKGROUND

"The right of all adult citizens to participate in the affairs of their government is one of the cornerstones of democracy ... For citizens to exercise their democratic right to vote, there must be a comprehensive and inclusive electoral register, also called a voters list; and this must be carefully maintained to ensure that each eligible citizen is registered to vote once and only once. A voters list makes it possible to separate two of the most important functions of the election authority: verifying voter eligibility and controlling the legitimacy of the balloting process."⁵

Voter registration is the process of verifying potential voters, and entering their names and other substantiating information on a voters list.⁶ Earliest registration efforts in the US began in Massachusetts (1800), South Carolina (1819) and Pennsylvania (1836). Voter

registration exists for two fundamental reasons: 1) to prevent fraud by allowing only those eligible to vote (eligibility is to be verified when the individual registers to vote, and they are authenticated on Election Day when they go to vote); and 2) for election management and administration (to ensure that ballots and polling places are sufficiently prepared to facilitate swift and orderly elections, as well as to maintain voter information and manage voter lists for present and future elections).

Voter registration is complex and ongoing. Due to the high mobility of Americans, along with people continuously turning eighteen or passing away, no voter registration database is ever 100% accurate. After the 2000 U.S. presidential election, the Voter Technology Project (VTP), a joint effort of California and Massachusetts Institutes of Technology (Caltech and MIT), outlined five basic standards that a voter registration system should meet. Registration information must be 1) accurate and complete; 2) immune from fraud; 3) dynamic and up-to-date; 4) usable by election officials at polling places; and 5) easy for eligible individuals to register to vote. The VTP also states, “[c]urrent and future voter registration systems should be assessed relative to these standards.”⁷

Voter registration in advance of Election Day is currently required in forty-one states. Only North Dakota does not currently require voter registration, although there are periodic efforts to change that. Eight states, plus the District of Columbia, currently use some form of Election Day Registration (EDR): Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, Wisconsin and Wyoming. The first three states to offer it, Maine, Minnesota and Wisconsin, began offering EDR in the 1970s. Idaho, New Hampshire and Wyoming began offering it in the 1990s in response to the National Voter Registration Act (i.e., “Motor Voter”). Montana and Iowa converted to EDR in 2006 and 2007 respectively, and some in those states have questioned

the wisdom of adopting EDR.⁸ The District of Columbia, the newest jurisdiction, implemented EDR in the 2010 election cycle. In recent years, efforts to expand EDR to Alaska, Arizona, California, Connecticut, Georgia, Hawaii, Illinois, Indiana, Maryland, Massachusetts, Michigan, Missouri, Mississippi, Nebraska, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington and West Virginia have failed. In a few states, such as California and Colorado, the voters themselves rejected EDR by significant margins, recognizing that EDR made fraud and non-citizen voting much easier and more likely.⁹

In its simplest form, EDR is the practice of allowing a voter to register to vote at the polling place on Election Day immediately before voting. In practice, the eight states that currently utilize Election Day Registration vary in detail, and use different mechanisms in their attempts to balance access to the polls against ensuring a clean and fair election.¹⁰ A chart highlighting these differences is appended to this paper. In addition to the eight EDR states, North Carolina and Ohio have something very similar to EDR. In 2007, North Carolina adopted same-day registration for early voting.¹¹

Advocates of EDR claim that it boosts voter turnout.¹² To support their claim they point to the fact that voter turnout is generally higher in EDR states.¹³ What they fail to acknowledge, however, is that many of the EDR states were among those with the highest turnout *prior* to their adoption of EDR. Indeed, even liberal Professor Paul Gronke, Chair of the Political Science Department at Reed College and the Director of the Early Voting Information Center, has concluded that the primary barriers to turnout are voter interest and motivation. Further, Gronke asserted, "Anyone who thinks same-day registration will do anything but help turnout a few percentage points...[is] sadly mistaken."¹⁴ Moreover, as one Harvard researcher has postulated,

it appears that a big reason for higher turnout of voters in EDR states is that political parties and campaigns are much more likely to mobilize their partisan activists in those states and contact voters.¹⁵

Even more intriguing, current research suggests that turnout has decreased in a number of EDR states based on both the 2008 presidential elections turnout and the 2010 midterm elections turnout.¹⁶ In 2008, even with dramatically higher turnout nationwide, reportedly the third highest turnout since 1920, four of the eight EDR states reported *decreased* turnout, six of the eight EDR states were in the bottom half of the country for turnout, and two of the five states with the largest decrease in voter turnout between 2004 and 2008 were the EDR states of Maine and Wisconsin.¹⁷ Between 2006 and 2010 midterm elections, there was a decrease in turnout in five of the eight EDR states.¹⁸ Further, there is now some suggestion that one of the negative consequences of EDR is that voters who otherwise might have been in touch with election officials prior to Election Day to register or to change their voter information do not bother to do so, which makes Election Day more challenging for all voters and officials due to the additional administrative burden at the polls.¹⁹

Several of the EDR states' requirements do not verify where the person actually resides or even that the person is who they claim to be. Minnesota, Iowa, Wisconsin and New Hampshire have the most lax requirements, allowing the voter themselves or someone else to simply swear or vouch to their citizenship, identity and residency. In the Milwaukee Report, vouching was listed as a possible means of voter fraud for a local candidate who "cast ballots in both Wisconsin and Illinois in the November 2000 General Election."²⁰ Wisconsin and New Hampshire do not even otherwise require documentary evidence that is sufficient to prove identity and domicile. Unfortunately, these lax requirements make it extremely easy for

someone to commit fraud, and despite the challenges of proving fraud, fraud has been proven in some instances.

II. THE NEED TO ENSURE SAFE ELECTIONS OUTWEIGHS THE ALLEGED BENEFITS OF ELECTION DAY REGISTRATION & DEMONSTRATED PROBLEMS WITH ELECTION DAY REGISTRATION

In addition to ignoring evidence that EDR states initially had higher turnout prior to implementation, and ignoring the evidence suggesting that turnout has been decreasing in EDR states, proponents of EDR often attempt to marginalize critics by claiming there is no proof of widespread fraud. This line of attack should not be taken seriously.

Additionally, as the lax requirements demonstrate, it is extremely easy to commit undetected fraud, particularly in areas where neighbors are less likely to know one another. An ineligible voter in New Hampshire can register and vote by simply stating any name and address. As long as that address exists, no one would even question the registration after the election. Moreover, as the investigators in Wisconsin found out after the 2004 election, the minimal record keeping requirements associated with EDR and the incompetence of many election officials make it almost impossible to prove, beyond a reasonable doubt, that fraud has been committed.²¹

Finally, as election officials in many places can attest, getting local prosecutors to investigate or prosecute rumors or even proven election fraud is very difficult. The reasons for this are numerous, one of which is the sloppiness and chaotic nature of EDR makes it difficult to maintain records necessary to prove a crime. A prime example of this occurred in the most exhaustive non-partisan study of Election Day Registration in Milwaukee in 2004:

The investigators believe that all 16 people [described] in this section [of the Milwaukee Report] committed felony crimes in the State of Wisconsin. However, neither of the prosecutorial entities involved in the investigation chose to prosecute. Although the investigators do not agree with this decision, it is certainly understandable given the lack of confidence that all involved have with the accuracy and reliability of Election Commission records. . . .

The Milwaukee Election Commission, through their ineptitude, raised enough reasonable doubt to prevent further criminal prosecution. It was impossible to ask a jury to believe that records were accurate as they related to those persons being prosecuted, while admitting that there were numerous errors committed throughout the election process.²²

Moreover, since most prosecutors are either appointed by the local political power elite or elected, they may worry about prosecuting those who determine whether they keep their job, or about being accused of selective, politically-driven prosecutions.

Prosecutors also often feel this is a less important crime. Vote fraud is perceived as a victimless crime if the fraud was unlikely to change the results of an election, and, therefore, less worthy of already scarce resources for prosecution. In his book *Stealing Elections*, John Fund details examples across the country of vote fraud being ignored or even condoned by local prosecutors, leading him conclude: "Most election boards do not have the authority to conduct vigorous investigations of voter fraud and most rely on local district attorney's offices that are usually heavily engaged in criminal cases and not interested in prosecuting election fraud for fear of being labeled partisan or racially motivated Our current lax enforcement of voting laws, in which prosecutors shy away from bringing election fraud cases unless the evidence is almost literally handed them on videotape, is analogous to having counterfeit bills circulating and the Treasury not wanting to be bothered until the printing press is located."²³

In spite of the difficulties proving fraud in EDR states, there is hard evidence that fraud, or in some cases incompetence, has allowed ineligible voters to cast ballots. As Wisconsin's

Attorney General, J.B. Van Hollen stated the day the Milwaukee Report resulting from the most extensive investigation of some of the problems with EDR was released:

[I]t isn't simply the right to vote that protects our democracy; it is the right to vote in fair elections, untainted by election fraud. Make no mistake. The dilution of one's lawful vote through the unlawful casting of ballots is a dilution of the most fundamental of our political freedoms. . . . Laws should make voting easy. But laws should not make illegal voting easy.²⁴

Wisconsin in 2004 and 2006

After the 2004 election, there were widespread allegations of voter fraud and irregularities in Milwaukee. In response, the U.S. Department of Justice, the Federal Bureau of Investigation (FBI), the U.S. Attorney's Office, U.S. Postal inspectors, the Milwaukee District Attorney's Office and the Milwaukee Police Department formed a joint task force to investigate the allegations. Ultimately, the Special Investigations Unit of the Milwaukee Police Department issued the Milwaukee Report in February 2008 describing its findings. The 67-page, detailed report concluded that Wisconsin's Election Day Registration system failed to prevent ineligible voters from voting. The Milwaukee Report found that more than 73,000 voters registered at the polls in Milwaukee alone on Election Day 2004, and that numerous ineligible voters were allowed to cast ballots.²⁵

These ineligible voters fit into several categories. First, there were people who were allowed to register and vote even though they failed to provide the *minimum* required information. In Wisconsin, Election Day registrants and the election official at the polling place are required to fill out an On-Site Voter Registration Card. These On-Site Cards are used to enter the Election Day registrants into the Wisconsin registered voter database. After the 2004 election, the Milwaukee Election Commission reported that 1,305 On-Site Cards could not be entered into the system because they lacked basic necessary information.²⁶ Of these 1,305

problematic On-Site Cards, 854 did not contain any voter address, 48 did not contain any voter name, 120 did not indicate what form of identification the voter provided, six listed invalid addresses, 141 listed addresses not in the City of Milwaukee, and 23 were ineligible voters.²⁷

These 1,305 people voted live ballots. For reasons never fully explained, 541 of these insufficient cards were entered into the Milwaukee voter rolls, allowing these apparently ineligible voters to vote in future elections by simply giving their name, assuming that it is their name. Moreover, there is nothing to stop a different person from voting under that ineligible name in future elections.

Second, the Milwaukee Report found that campaign workers who are legal residents of other states and localities registered and voted in Wisconsin. The report determined that a Maryland resident who was employed by a national 527 group, which is a tax-exempt political organization, used Wisconsin's Election Day Registration system to illegally vote in Milwaukee.²⁸ Apparently, the number of campaign workers and those who work for the 527 groups who abuse the EDR process is low only because they have found an even easier way to beat the system: each 527 group had several employees sworn in as deputy registrars and "simply registered [their cohorts] as Milwaukee residents, bypassing the election officials altogether."²⁹

Third, residents of other states or localities were allowed to register and vote on Election Day. The first example is telling: An individual voted as an On-Site Registrant using an address in the city of Milwaukee, despite the fact that he actually resides in Chicago, Illinois. When the individual was located and interviewed by phone, he confirmed that he resides in Chicago and explained that he voted in Milwaukee using his friend's address. He is now a registered voter in the City of Milwaukee.³⁰ Three other individuals who cast ballots in Milwaukee as On-Site

registrants were also recorded as having voted in Cook County, Illinois in the same election.³¹

Another person was allowed to register and vote on Election Day in Milwaukee using an Illinois identification card.³² The Special Investigation Unit also determined that numerous same day registrants were allowed to register and vote even though they have addresses outside of the city of Milwaukee and used Wisconsin driver's licenses that listed their actual non-Milwaukee address as their form of ID. As the report stated, "[I]f the poll inspectors had actually reviewed these driver's licenses the municipality of residence of the voter would have been apparent."³³

It appears that Milwaukee election officials are no better at ensuring that voters who do live in Milwaukee actually cast their ballots in the correct wards. "The Task Force discovered that a number of On-Site voters had cast their ballots outside of their legally defined wards."³⁴ In just five randomly selected wards, the Special Investigation Unit found 136 voters who were allowed to register and vote in the wrong ward.³⁵ This is extremely problematic as the 2004 ballot contained three state senate races and 17 state assembly races.³⁶

Fourth, people who were legally ineligible to vote on Election Day due to prior felony convictions were allowed to register and vote. The Special Investigation Unit confirmed that at least three ineligible felons voted via the Election Day Registration system.³⁷ The Special Investigation Unit determined that it is virtually impossible to stop a felon from registering and voting on Election Day because while poll workers are provided a list of felons, the list contains only those felons whose last known address is within their ward. Thus, a felon who has moved, or is willing to falsify his address, can show up at his new polling place and the election inspectors will have no idea that he is a felon.³⁸ The advantage of traditional registrations is that if the felon had attempted to register before the election, the election officials would have cross-referenced his name against the statewide list of felons and deemed him ineligible.³⁹

Lastly, it is important to note that the Milwaukee Police Task Force uncovered that leaders of the Kerry for President's Wisconsin campaign staff and a leading liberal 527 were voting illegally. The fact that the leaders of the Democrats' get out the vote effort were willing to commit vote fraud themselves, led the police to conclude that there was a "strong possibility" these staffers were leading an organized vote fraud effort.

Where proof could not be provided to Election officials that these staff members could vote in Milwaukee, other staff members who were registered voters vouched for them by corroborating their residency. More alarmingly, other staff members who were deputy registrars for this election simply registered these individuals as Milwaukee residents, bypassing Election officials altogether. *The actions of the listed campaign and 527 staff members appear to be violations of State of Wisconsin Law as it relates to registering of voters and the casting of ballots in an election. . . .*

It is difficult for the investigators to believe that paid professional campaign staff members, who were tasked with assisting in the registration of new voters and the facilitation of those voters to, among other things, vote by Absentee ballot, the chosen method of voting for most of the individuals listed, would not have had a working knowledge of the voter eligibility requirements in the State of Wisconsin. . . .

The belief of the *investigators* is that each of these persons had to commit multiple criminal acts in an effort to reach their ultimate goal of voting, showing that the act was a conscious, intentional effort to commit a crime. Each person described above committed at least two criminal acts associated with their effort to commit voter fraud. In the case of several of these individuals, additional criminal acts were committed by other persons in the completion of a criminal act. Registering a person to vote that was known to be ineligible, registering to vote when ineligible and the actual process of then voting are all crimes under Wisconsin State Statutes. . .

The investigators found, through media and Internet sources, that the two organizations, in their own words, placed *thousands* of staffers and volunteers in Wisconsin during the course of this election cycle...[T]he persons described in this section represent multiple levels of both of the organizations; from upper management to the street level canvassers. ...There does remain a strong possibility that the discovery of these random staffers voting illegally is the proverbial 'tip of the iceberg' as it relates to an illegal organized attempt to influence the outcome of an election in the state of Wisconsin.⁴⁰

Wisconsin does attempt to verify the addresses of each Election Day Registrant, but not until after the election. To the extent that this provides any safeguard, it is forward looking only

and relies solely on accurate action of the U.S. Postal Service. The system is simple. The election commission mails a postcard to every address listed on an On-Site Card. If the postcard is not returned as undeliverable, then the voter is entered into the system. In addition to having no ability to undo an already cast illegal vote, the system has no mechanism for verifying who, if anyone, lives at the address. After the 2004 election, 2,378 such postcards were returned as undeliverable.⁴¹ It appears that many of these were returned due to errors made by the election commission; however, the Special Investigations Unit's review of these returned postcards is telling. The Special Investigations Unit was not able to find *any* documentation to verify the existence of 64 names listed on the returned postcards. Likewise, at least 57 of the voters have no recorded evidence of residency in Milwaukee and some of the addresses are non-existent.⁴² In an effort to imitate Chicago, its neighbor to the south, seven of the voters listed on returned cards were dead.⁴³

Sadly, even though the 2004 elections provided substantial evidence of problems that needed to be addressed, there continued to be problems in 2006. Wisconsin resident Michael Zore was convicted of voting twice in the November 2006 election. Due to Wisconsin's Election Day Registration, Mr. Zore voted in his regular precinct in the Milwaukee suburb of Wauwatosa and then later traveled to West Allis (another Milwaukee suburb) and registered to vote using a false address. While Zore was ultimately caught, charged and convicted, his second illegal vote in West Allis was recorded and counted as part of the vote total in the 2006 general election.⁴⁴ In 2008, more allegations of voter fraud arose and many were charged. Including two staff members for the Association of Community Organizations for Reform Now (ACORN), the embattled community organizing group, who apparently submitted multiple voter registration applications for the same individuals, and were also involved in a scheme in which they and

other ACORN staff members registered each other to vote multiple times in order to meet voter registration quotas imposed by ACORN.⁴⁵

Montana in 2006

Montana implemented EDR beginning with the 2006 election. In addition to major logistical the problems with EDR that caused some lawmakers to call for its end, there were suggestions of election fraud, even though no one has been prosecuted. Most troubling was Democrat Governor Brian Schweitzer's statement in a 2008 speech to trial lawyers that he arranged to have tribal police bully observers out of tribal polling places to ensure the election of fellow Democrat Jon Tester to the U.S. Senate.⁴⁶ After the comments became public, Governor Schweitzer insisted it was a poorly made "joke."⁴⁷ Despite the Governor's insistence that this was merely a joke gone wrong, Terry Coddins, an election observer, swore out an affidavit stating that ballot boxes in tribal precincts were not secured with locks and that he was asked to leave a polling place before the ballots were counted.⁴⁸ Fellow Democrat, and Montana Attorney General, Mike McGrath refused to investigate the complaint.⁴⁹

Minnesota in 2008 and 2010

While all states have some problems in their voter registration files due to the transiency of voters—the fact that voters die and new voters turn 18—some states seem to have a particularly hard time keeping accurate registration records. That seems to be the case more frequently for some EDR states. The lack of accuracy can translate into fraudulent or ineligible voting. In October 2008, Minnesota Majority released a letter it sent to the Secretary of State Mark Ritchie in which it outlined a number of serious problems it found in an analysis of Minnesota's voter registration rolls.⁵⁰ Among many other problems, the analysis revealed more than 2,000 voters from the elections of 2004 or 2006 whose address was "undeliverable."

Another 10,000 voters resided at vacant addresses.⁵¹ Additionally, the lists contained over 10,000 addresses in one county alone, excluding apartment buildings, where five or more voters were registered. One address had 124 voters.⁵² Some of these problems might be explainable. But it is troublesome that the Secretary of State made no serious attempt to fix the problems with the voter registration roles. In fact, Secretary of State Ritchie's response to these concerns was to call a press conference to accuse Minnesota Majority of "voter intimidation." After denying Secretary Ritchie's claim, the president of Minnesota Majority said, "I would think the Secretary of State would say, thank you for doing this."⁵³ In addition to the voter roll problems, Minnesota has at least one documented case of an ineligible felon being allowed to vote as a result of its lax EDR requirements.⁵⁴

Minnesota is also one of a handful of states that allow for "witness vouching" in EDR circumstances. "Witness vouching" means that if a non-registered voter goes to the polls on Election Day and does not have proof of residency for EDR purposes, a corroborating witness that is present and lives in the same ward may vouch for the voter so that he may register and cast a ballot. In the wake of the 2010 elections, the Minneapolis Police Department is investigating several organizers of the group Organizing for America (OFA) and their University of Minnesota affiliate group, Students Organizing for America (SOFA) for vote fraud connected to vouching. OFA is the successor organization to Obama for America, created by President just three days into his first term as president and SOFA is a student branch of OFA. The allegations against OFA and SOFA indicate they were engaged in an organized conspiracy to commit vouching fraud by directing members to vouch for groups of people they did not personally know.⁵⁵ A University of Minnesota magazine described the incident:

Allegedly, several members of SOFA were congregating outside of University Lutheran [polling place] and pairing up vouchers and individuals that needed to be vouched for. It

is unclear whether or not the pairs knew each other; if they did not know each other and the voucher signed the oath, he or she would be in violation of Minnesota state law and face felony charges. Eventually a judge approached a woman from the group and confronted her about the person she was vouching for. The woman said she did not know the individual and was merely doing what SOFA instructed her to do. When attempting to vouch for an unregistered woman, another SOFA member could not give the woman's correct address and was told by the judge that he would not be allowed to vouch for her. The SOFA member then got into a shouting match with the judge and was literally dragged off the premises.⁵⁶

But for the keen observation of a judge who happened to be present outside the polling place, this conspiracy to commit vote fraud would have gone undetected. Ginny Gelms, the interim elections director in Minneapolis, said that of the almost 800 individuals who voted at the precinct, more than 500 were on-site registrants and the hectic atmosphere at the polling place could have contributed to the incidents.⁵⁷ It is nearly impossible to catch this type of fraud when it occurs on Election Day, which is why it is important that a deadline for voter registration be set in advance of Election Day; moreover, if this type of fraud is caught after the fact, there is no way to prevent the illegal ballot from being counted. Vouching is yet another device endangering the integrity of the voting process.

Ohio in 2008

In Ohio during the fall of 2008, there was a one-week period where voter registration and early voting overlapped. By order of the Democratic Secretary of State Jennifer Brunner, voters were allowed to register and vote at the same time and place during this one week overlap. Liberal activists termed this "Golden Week."⁵⁸

Ohio's "Golden Week" resulted in numerous problems and fraudulent votes. Although prosecutors are generally reluctant to prosecute vote fraud, it is telling that three staffers for a leading voter registration group pled guilty to taking advantage of the temporary EDR system to vote in the contested state of Ohio and not their home states.⁵⁹ The fact that these staffers

personally committed voter fraud begs the question of whether they would advise others to vote illegally as well. Consider Amy Little, a 50-year-old political consultant from New York who insisted she was playing by the rules. “‘I’ve been living in Ohio,’ she said, when reached on her home phone in New Paltz[, New York] Wednesday morning. ‘I have no intention of voting in New York.’” Franklin County Board of Elections Director Michael Stinziano confirmed his office received 160 complaints, including many directed at Ms. Little and the voter registration group known as “Vote Today Ohio.”⁶⁰

Unsurprisingly, political operatives were not the only ones who figured out how to use Ohio’s golden week to vote illegally. In December of 2008, Connecticut resident Kevin Duffy pled guilty to attempted false voter registration. Mr. Duffy admitted that while he was in Ohio visiting his sister, he decided to use Ohio’s “golden week” to cast a second, illegal vote. He registered and voted. But for Mr. Duffy’s guilty conscious, no one would have ever found out. A week after placing his illegal vote, Mr. Duffy called the Hamilton County, Ohio election officials and confessed.⁶¹

III. IF ELECTION DAY REGISTRATION IS GOING TO BE IMPLEMENTED, SUFFICIENT SAFEGUARDS SHOULD BE IN PLACE TO LIMIT THE IMPACT OF FRAUD OR INCOMPETENCE

The Milwaukee Report summarized:

It is the opinion of the Task Force investigators that more than any other recommendation we could make, our investigation has concluded that the one thing that could eliminate a large percentage of fraud or the appearance of fraudulent voting in any given election is the elimination of the On-Site or Same Day voter registration system.⁶²

The decision to employ Election Day Registration is really a decision to accept a certain number of illegal votes for the perceived benefit of higher voter turnout. Which, as discussed

above, may not in fact be significantly increased. Election Day Registration should not be used as a system at all. Indeed, advocates of Election Day Registration have acknowledged that they are willing to accept some fraud in exchange for “the greater good” (i.e. allowing more people the chance to vote).⁶³ Common sense dictates that if states are going to make this trade-off, then they should take reasonable steps to minimize the amount of fraud and incompetence.

In recognition that some states have already made this trade-off as a political matter, and others may at some point be forced to, this section of the white paper suggests what should be viewed as the minimal requirements that should be in place in EDR states, both to better ensure fair and accurate elections and to minimize fraudulent votes, or at least the perception thereof.

A. Government Issued Photo Identification and Proof of Residency

Any state utilizing Election Day Registration should require voters to prove identity with a government issued photo identification card that includes the voter’s name, address and date of birth. While all the EDR states’ systems could be improved, Idaho appears to have the best of the current EDR systems – it requires at the very least valid address verification and photo identification. Some EDR states require no photo identification, and others do not require proof of residency. Two states allow a potential EDR voter to merely provide their driver license number or the last four digits of their social security number. Several of the EDR states including Iowa, Minnesota, New Hampshire and Wisconsin require neither photo identification nor documentation of residency, and accept a form of personal or witness vouching in some or all circumstances. The problem with witness vouching in terms of voter fraud is obvious as exemplified by the previously discussed Minneapolis Police Department investigation into several community organizers and University of Minnesota students conspiring to commit vouching fraud.⁶⁴

The rationale for such a government-issued photo ID requirement should be obvious. Absent a picture, or other biometrics, there is no possible way to actually verify that the person claiming to be John Smith is actually John Smith, and given increased voter mobility in many jurisdictions, voter vouching is an open invitation to fraud. The Milwaukee Police Department's Special Investigation Unit concluded that if EDR was going to be employed, then a government issued photo ID, with name, address and birth date was necessary to prevent fraud.⁶⁵ In some states, the suggestion of required voter identification has been met with claims of racism and undue burden on the poor and elderly. The opponents claim these groups do not have a picture ID and are unable to get to the DMV. However, such objections are easily remedied by sending the DMV or election officials into nursing homes and neighborhoods and providing the IDs at reduced costs or for free. Further, the United States Supreme Court has removed any doubt that this practice is constitutional.⁶⁶

Moreover, requiring photo identification will not decrease turnout.⁶⁷ In fact, Robert Pastor and the researchers at American University's Center for Democracy and Election Management surveyed three states that require photo identification and found that less than 1% of all voters did not have the required ID.⁶⁸ In Indiana, the state with the strictest photo ID rules, Pastor found that only .3% of its voters did not have necessary identification.⁶⁹ Photo ID laws instill public confidence in the electoral process. Seventeen percent of those surveyed from the three states collectively indicated they had seen or heard of fraud at their polling place, and 60% had seen or heard of fraud at other polling places.⁷⁰ However, Indiana voters, who must comply with the nation's strictest photo ID requirements, were significantly more confident that their votes would be accurately counted than voters in the other two states.⁷¹ Moreover, nearly two-thirds of those surveyed thought that requiring photo identification would improve trust in the

US electoral system.⁷² In addition, an August 2010 Rasmussen poll showed that an overwhelming 82 percent of people feel that voters should be required to present photo identification at the polls before they are permitted to vote.⁷³

Even advocates of EDR recognize that the concern about fraud is real. Some have suggested “requiring that those who are registering on Election Day provide some form of valid identification is one important safeguard.”⁷⁴ As the Supreme Court reiterated in a case examining the constitutionality of voter ID legislation, “The electoral system cannot inspire public confidence if no safeguards exist to deter or detect fraud or to confirm the identity of voters. Photo identification cards currently are needed to board a plane, enter federal buildings, and cash a check. Voting is equally important.”⁷⁵

B. Treat “Non-Verified” Election Day Registrants as Provisional Voters

Catching an illegal voter and removing them from the voter registration list after the ballot is counted does not prevent illegal votes from impacting the outcome of an election. Accordingly, EDR ballots need to be handled so that the votes of new Election Day Registrants who are unable or unwilling to provide “verified” proof of identity and residence can be separated from other voted ballots. The two existing models that allow for this are provisional ballots and absentee ballots. With the advent nationwide of provisional ballots as a consequence of the Help America Vote Act of 2002, it would be easy to institute rules along the lines of provisional balloting. Likewise, North Carolina’s same-day early voting process allowed a voter to fill out an absentee ballot immediately after registering. Whether handled as a provisional or absentee ballot, this type of voting process would allow an EDR ballot to be tracked and removed from the vote totals if it is later determined that the voter was not eligible to vote. Even some advocates of EDR have suggested the use of provisional ballots.⁷⁶

Ballot tracking provides a proper balance between ensuring the right to vote and safeguarding the integrity of the system. This is done by allowing post-election voter verification by election officials before adding a voter to the voter rolls for the future. The election officials would be able, as with normal registration, to do electronic matching and other verification processes to determine if the voter and address were valid, and check the list of those who voted before adding the voter and counting the vote. It is hard to imagine a principled opposition to this requirement. In close elections, this would have the added advantage of allowing an unverified EDR registrant's vote to be counted later if the voter came back with adequate verification to prove they are entitled to vote. This is done in states with strict voter ID laws, like Indiana and Georgia.

C. Other Considerations

A state contemplating EDR must recognize that the implementation of any new election process, especially one as different as Election Day registration, is a significant event. There will be logistical challenges that should be anticipated and addressed before the transition is live. The Pew Center on the States issued a report on EDR that noted, "long lines, pollworker confusion and headaches" were common during Montana's first EDR election, and similar problems surface when EDR was first implemented in Minnesota.⁷⁷ These complications occur: 1) prior to Election Day related to ensuring voters are made aware of the rules and logistics of EDR; 2) on Election Day at polling places and other locations where EDR occurs; and 3) after Election Day as election officials deal with many additional post-election issues. Further, while a photo ID is critical to guarantee that the voter is who he claims to be, it does not guarantee that the voter has not already voted in another precinct. There are a couple of ways to address this problem. As the Milwaukee Special Investigation Unit found, EDR requires that poll workers be

well trained and on the top of their game.⁷⁸ Unfortunately, that is impossible to ensure in every precinct in the state; however, having one centralized location for registration would allow these locations to be properly staffed and equipped with access to the statewide database. Further, expanded use of electronic pollbooks, particularly if it not only includes information on who has already voted absentee, but also on real time voting during Election Day, would make it far easier to ensure that a voter only votes once per election. If eBay can track real time bids placed on an item, there is no doubt that a state can create a secure web database that records who has voted in real time. Wisconsin's statewide list is what first alerted officials to the double vote of Mr. Zore.⁷⁹ If the list had been updated in real time, Mr. Zore's second illegal vote could have been prevented from hitting the ballot box.

CONCLUSION

Election Day Registration is not a panacea for low turnout. Instead, it is a systemically flawed process that is subject to both intentional fraud and unwitting incompetence. The costs, in terms of fraud, incompetence, vote dilution and general lack of confidence in the system greatly outweigh any perceived benefit. EDR should not be expanded beyond the states that already employ it. Instead, those states that do allow EDR, or any state that ignores the costs and chooses to adopt EDR in the future, should take the necessary steps to ensure these costs are minimized to the extent possible.

Chart Summarizing Election Day Registration States

State	Year Adopted or Began Statewide	Where Voter Registers?	Summary of Key ID Provisions	Photo ID Required?	Requires ID Photo AND Address Proof	Requires ID photo OR Address Proof	ID Attest or Vouch?
Idaho	1994	polling place	DMV DL or ID; or, valid address documentation plus photo ID; or, student ID, plus address doc., plus photo ID	yes	yes	n/a	no
Iowa	2008	polling place	DMV DL or ID w/current address; or, alt. specified proof of residence, plus specified photo ID;	photo req'd, except if use vouching option	req'd, except if use vouching option	n/a	yes
Maine	1973	polling place	DL # or last 4 of SSN; if neither, then voter checks a box	no	no	no	no, unless no DL # or SSN, when voter checks box
Minnesota	1973	polling place	DMV DL/ID w/current address; tribal ID; if gov't ID has prior address, or if military ID or passport, need current utility bill; vouch	no	yes, except if use vouching option	n/a	yes
Montana	2006	election offices	DL # or last 4 of SSN; if neither, then list of other acceptable documents	no	no	yes	no
New Hampshire	1994	polling place	registrant must prove citizenship, age & domicile, but affidavits are acceptable	no	no	no	yes
Wisconsin	1973	polling place	long list of acceptable documentation	no	no	no	yes
Wyoming	1994	polling place	DL # or last 4 of SSN	no	no	yes	no

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¹ Special Investigation Unit, Milwaukee Police Department, *Report of the Investigation into the November 2, 2004 General Election in the City of Milwaukee*, at 26 (June 27, 2005) (hereinafter "Milwaukee Report").

² *Id.*

³ The ACE project is a joint endeavor of eight international organizations involved in democracy-building around the globe. The ACE Encyclopedia is one of the tools created by the ACE project. ACE Electoral Knowledge Network, ACE Encyclopedia, *available at* <http://aceproject.org/ace-en/topics/vr/vr10>.

⁴ *Milwaukee Report* at 48.

⁵ ACE Electoral Knowledge Network, ACE Encyclopedia, *available at* <http://aceproject.org/ace-en/topics/vr/vr10>.

⁶ *Id.*

⁷ R. Michael Alvarez, Voter Registration: Past, Present and Future, June 17, 2005, written testimony prepared for the Commission on Federal Election Reform (last visited last on January 27, 2011) *available at* <http://www.american.edu/ia/cfer/0630test/alvarez.pdf>.

⁸ See e.g. Election Day Registration: A Case Study," *electionline.org*, at 5-6, February 2007. Available and viewed March 19, 2009 at http://www.pewcenteronthestates.org/report_detail.aspx?id=32754

⁹ PEW Center on the States, Election Day Registration: A Case Study," at 3, 10 and 11 (February 1, 2007), *available at* http://www.pewcenteronthestates.org/report_detail.aspx?id=32754.

¹⁰ A. Idaho

Voters in Idaho are allowed to register on Election Day at their polling place. Voters in Idaho who register on election day are required to provide one of the following forms of identification:

- (1) driver's license or state identification card issued through the Department of Transportation;
- (2) any document which contains a valid address in the precinct together with a picture identification card;

or

- (3) a current valid student identification card from a post to secondary educational institution in Idaho together with a current student fee statement that contains the student's valid address and a picture identification card.

In 2004, 117,622 people registered at the polls on Election Day. In 2006, nearly 55,000 voters registered at the polls on Election Day.

B. Iowa

Voters in Iowa are allowed to register on Election Day at their polling place. Voters in Iowa who register on Election Day are required to provide proof of their identity and their residency.

A valid Iowa driver's license with a current address or the attestation of a registered voter fulfills both requirements. If the Voter does not have a valid Iowa driver's license with a current address and cannot find a voter to attest to his identity and residency, the voter can prove his identity by providing:

- (1) valid Iowa driver's license without current address;
- (2) An out of state driver's license;
- (3) non-driver photo identification card;

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- (4) US passport;
 - (5) US military ID;
 - (6) photo ID card issued by employer;
 - (7) Student photo ID issued by Iowa high school or college.

And, the voter can prove residency with any of the following:

- (1) a residential lease;
- (2) property tax assessment;
- (3) utility bill;
- (4) bank statement;
- (5) paycheck;
- (6) government check; or
- (7) other government document.

C. Maine

Voters in Maine are allowed to register on Election Day at their polling place. A voter who registers on Election Day is required to provide:

- (1) driver's license number; or
- (2) the last four digits of their social security number.

Maine does not require any form of picture I.D. or any address verification.

D. Minnesota

Minnesotans are allowed to register on Election Day at their polling place. In order to register on election day, voters in Minnesota are required to provide:

- (1) a driver's license, learners permit identification card or the receipt for one with a current address;
- (2) a tribal I.D. card;
- (3) a Minnesota Drivers License, state issued I.D. or tribal I.D. containing the voter's former address together with a current utility bill with their current address;
- (4) a state issued notice of late registration post card;
- (5) a U.S. Passport with a current utility bill;
- (6) a U.S. Military Photo I.D. card with a current utility bill;
- (7) a student I.D, registration of free statement with a current address or utility bill; or
- (8) the oath of a registered voter in the precinct vouching for the resident.

In 2004, 492,421 voters registered at their polling place on Election Day. In 2006, 292,168 voters registered at their polling place on Election Day.

E. Montana

Voters in Montana are also allowed to register on Election Day. However, voters in Montana are required to go to their election offices to register. Voters in Montana are required to provide one of the following forms of identification:

- (1) drivers license or last four digits of social security number.
- (2) voters who do not have a driver's license or a social security number must provide a copy of one of the following:
 - (a) any photo I.D. with their name; or
 - (b) a current utility bill, bank statement, paycheck, government check or other government document that shows name and current address.

F. New Hampshire

Voters in New Hampshire are allowed to register on Election Day at their polling place. An Election Day registrant is required to provide proof of citizenship, age and domicile. However, a registrant may do so by their own affidavit. In 2004, 94,431 voters registered at their polling place on Election Day. In 2006, 25,924 voters registered at their polling place on Election Day.

G. Wisconsin

Voters in Wisconsin are allowed to register at their polling places on Election Day. Voters who register on election day are required to provide:

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- (1) a Wisconsin drivers license or other state issued I.D.;
 - (2) an employee I.D. with or without photo;
 - (3) a real estate tax bill or receipt for the current year or the year preceding the date of the election;
 - (4) a current residential lease;
 - (5) a university, college or technical institute fee card with photo;
 - (6) a university, college or technical institute identification card with photo;
 - (7) a utility bill for the period commencing not earlier than 90 days before the election;
 - (8) a bank statement;
 - (9) paycheck;
 - (10) a check or other document issued by a unit of government; or
 - (11) attestation of a registered voter in the precinct vouching for the residents.
- In 2006, 360,059 voters registered at the polling place on Election Day.

H. Wyoming

Voters are allowed to register on Election Day at their polling place. A voter must provide proof of identification by supplying:

- (1) a driver's license number; or
- (2) the last four digits of their social security number.

With the exception of Iowa the requirements of the individual states can be found in: PEW Center for the States, "Election Day Registration: A Case Study," (February 2007) *available at* <http://www.pewcenteronthestates.org/uploadedFiles/Election%20Reform%20Briefing%2016;%20Election-Day%20Registration%20A%20Case%20Study.pdf>.

The information for Iowa is outlined in: Michael A. Mauro, Secretary of State, "Iowa Election Day Registration Guide," *available at* <http://www.sos.state.ia.us/pdfs/elections/EDRbrochure.pdf>.

¹¹ See N.C. Gen. Stat. §§ 163-82.6A, 163-82.6 & 163-227.2(a).

¹² See "Voters Win with Election Day Registration," A Demos Policy Brief, updated summer 2009, *available at* <http://www.demos.org/publication.cfm?currentpublicationID=2D9B9786%2D3FF4%2D6C82%2D5AC18BB4E53ADCFA>.

¹³ Id. For example, one the headlines of this Demos' paper: "States with EDR have consistently boasted turnout rates 10 to 12 percentage points higher than states that do not offer Election Day Registration."

¹⁴ PEW Center for the States, "Election Day Registration: A Case Study," (February 2007) *available at* <http://www.pewcenteronthestates.org/uploadedFiles/Election%20Reform%20Briefing%2016;%20Election-Day%20Registration%20A%20Case%20Study.pdf>. The Early Voting Information Center maintains a website at: <http://www.earlyvoting.net/blog/>.

¹⁵ M.K. Fitzgerald, *The Triggering Effects of Alternative Voting Methods on U.S. Political Campaigns and Elections*, prepared for presentation at the Annual Meeting of the American Political Science Association, Washington, DC, August 31-September 3, 2005) *available at* http://www.allacademic.com/meta/p41525_index.html.

¹⁶ Dr. Michael McDonald, "Turnout 1980-2010," United States Elections Project, George Mason University, *available at* <http://elections.gmu.edu/Turnout%201980-2010.xls>.

¹⁷ Press Release, American University's Center for the Study of the American Electorate, December 17, 2008, *available at* <http://www.american.edu/ia/cdem/csae/pdfs/2008pdfoffinaledited.pdf>. See also Testimony of Curtis Gans before the U.S. Senate Rules Committee, at 6 (March 11, 2009); see Dr. Michael McDonald, "Turnout 1980-2010," United States Elections Project, George Mason University, *available at* <http://elections.gmu.edu/Turnout%201980-2010.xls>.

¹⁸ Dr. Michael McDonald, "Turnout 1980-2010," United States Elections Project, George Mason University, available at <http://elections.gmu.edu/Turnout%201980-2010.xls>.

¹⁹ Barry C. Burden et. al, The Effects and Costs of Early Voting, Election Day Registration, and Same Day Registration in the 2008 Elections, University of Wisconsin-Madison (Report presented to the Pew Charitable Trusts, Dec. 21, 2009), available at electionadmin.wisc.edu/pewreportfinal.pdf.

²⁰ *Milwaukee Report* at 36.

²¹ *Id.* at 27.

²² *Id.* at 52, 55.

²³ John Fund, *Stealing Elections, How Voter Fraud Threatens Our Democracy*, 52, 73, 103-04, 146-47, 153 (Encounter Books 2008) (2004).

²⁴ J.B. Van Hollen, Wisconsin Attorney General, Statement on Milwaukee Police Department's Report on 2004 Election, February 26, 2008 available at http://www.doj.wi.gov/news/2008/nr022608_AG.asp.

²⁵ *Milwaukee Report* at 9.

²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.* at 51.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.* at 36.

³² *Id.*

³³ *Id.* at 18.

³⁴ *Id.* at 39.

³⁵ *Id.* at 40.

³⁶ Wisconsin Government Accountability Board, 2004 Fall Election Cycle, available at <http://elections.state.wi.us/subcategory.asp?linksubcatid=391&locid=47>.

³⁷ *Milwaukee Report* at 19.

³⁸ *Id.*

³⁹ In the event a person is deemed ineligible to vote due to mistaken identity (that such person is a convicted felon and really is not), there is always the option of that person casting a provisional ballot. With EDR there is no such remedy; the ballot has already been cast.

⁴⁰ *Milwaukee Report* at 51-53.

⁴¹ *Id.* at 60.

⁴² *Id.*

⁴³ *Id.*

⁴⁴ Derrick Nunnally, Man convicted of double voting, Milwaukee Journal Sentinel (August 23, 2007) *available at* <http://www.jsonline.com/news/milwaukee/29425314.html>.

⁴⁵ Daniel Bice, 5 face voter fraud charges, Milwaukee Journal Sentinel (March 8, 2010) *available at* <http://www.jsonline.com/news/wisconsin/87049717.html>.

⁴⁶ Brian Schweitzer, Speech to the annual trial lawyers' convention, Philadelphia, PA (July 14, 2008) *available at* <http://www.archive.org/details/MontanaGov.BrianSchweitzerSpeechToTrialLawyersConvention7142008>.

⁴⁷ Jennifer McKee, *Schweitzer 'Joke' May Have Grain of Truth*, Billings Gazette (Sept. 11, 2008) *available at* <http://billingsgazette.net/articles/2008/09/11/news/state/18-electionfraud.txt>.

⁴⁸ *Id.*; *see also* Ballotpedia, Governor "just joking" about vote fraud, *available at* http://ballotpedia.org/wiki/index.php/Governor_%22just_joking%22_about_vote_fraud (last modified May 20, 2009).

⁴⁹ Jennifer McKee, *Bit of Truth Found in Gov. Schweitzer's Joke*, Missoulian (Sept. 12, 2008).

⁵⁰ Minnesota Majority, Letter to Minnesota Secretary of State Mark Ritchie (Oct. 16, 2008) *available at* <http://www.minnesotamajority.org/Portals/0/documents/SOSLetter.pdf>.

⁵¹ *Id.*

⁵² *Id.*

⁵³ Kevin Duchscher, Watchdog group denies trying to intimidate voters, Minnesota Star Tribune (October 30, 2008), *available at* http://www.startribune.com/politics/state/33616804.html?elr=KArksD:aDyaEP:kD:aU2EkP7K_t:aDyaEP:kD:aUiD3aPc:_Yyc:aUU.

⁵⁴ Paul Walsh, Convicted felon voted, and there's no turning back, Minnesota Star Tribune (Jan. 7, 2009), *available at* <http://www.startribune.com/politics/37219649.html>.

⁵⁵ Election Integrity Watch, Preliminary Report on Complaints of Irregularities in Minnesota's 2010 General Election at 8-9 (Dec. 15, 2010), *available at* <http://www.electionintegritywatch.com/documents/2010PreliminaryReport.pdf>.

⁵⁶ Carter Haaland, *SOA Alleged Vouching Fraud*, The Wake Fortnightly Student Magazine (Dec. 2, 2010), *available at* <http://www.wakemag.org/cities/students-organizing-for-america-alleged-vouching-fraud/>.

⁵⁷ Evelina Smirnitskaya, Students may face felonies over illegal voter vouching, The Minnesota Daily (Nov. 8, 2010), *available at* <http://www.mndaily.com/2010/11/08/students-may-face-felonies-over-illegal-voter-vouching>.

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⁵⁹ Barbara Carmen, "3 voting advocates guilty," Columbus Post Dispatch (April 28, 2009) *available at* http://www.dispatch.com/live/content/local_news/stories/2009/04/28/three_voters.html?sid=101.

⁶⁰ Alexa James, Hall adviser fired, linked to Ohio voting fraud probe, Times Herald-Record (Oct. 29, 2008), available at <http://www.recordonline.com/apps/pbcs.dll/article?AID=/20081029/NEWS/81029041>.

⁶¹ Kimball Perry, Only one voter fraud case found, Cincinnati Enquirer (Jan. 27, 2009).

⁶² *Milwaukee Report* at 26.

⁶³ Ed Tibbets, Republicans criticize same-day voting laws, Quad-City Times (Jan. 1, 2009).

⁶⁴ Election Integrity Watch, *Preliminary Report on Complaints of Irregularities in Minnesota's 2010 General Election* at 8-9 (Dec. 15, 2010), available at <http://www.electionintegritywatch.com/documents/2010PreliminaryReport.pdf>. See *supra* Section II.

⁶⁵ *Milwaukee Report* at 26.

⁶⁶ *Crawford v. Marion County Election Bd.*, 553 U.S. 181, 189 (2008).

⁶⁷ Pastor, et al., "Voter IDs are not the Problem: A Survey of Three States" (Jan. 9, 2008), available at <http://www.american.edu/ia/cdem/csae/pdfs/csae080109.pdf>.

⁶⁸ *Milwaukee Report* at 9, 15.

⁶⁹ *Id.*

⁷⁰ *Id.* at 10, 32-33.

⁷¹ *Id.* at 29-30.

⁷² *Id.*

⁷³ Rasmussen Reports, 82% Say Voters Should Be Required to Show Photo ID (Aug. 19, 2010), available at http://www.rasmussenreports.com/public_content/politics/general_politics/august_2010/82_say_voters_should_be_required_to_show_photo_id.

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⁷⁶ Alvarez, et. al, at 18.

⁷⁷ PEW Center on the States, "Election Day Registration: A Case Study," at 1, 7 (February 2007), available at http://www.pewcenteronthestates.org/report_detail.aspx?id=32754.

⁷⁸ *Milwaukee Report* at 26.

⁷⁹ Stacy Forster, Database helped nab double voter, Milwaukee Journal Sentinel (Aug. 24, 2007) available at <http://www.jsonline.com/blogs/news/31954054.html>.